

**DISTRICT OF COLUMBIA**  
***OFFICIAL CODE***

**2001 EDITION**

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Volume 14

Title 28

Commercial Instruments and Transactions  
(Subtitle I, Articles 4 to End; Subtitle II)

**JUNE 2014 CUMULATIVE SUPPLEMENT**



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# PREFACE

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These annual cumulative pocket parts update the District of Columbia Official Code, 2001 Edition, with permanent, temporary, and emergency legislation and judicial constructions contained in annotations. These pocket parts contain the Laws, general and permanent in their nature, relating to or in force in the District of Columbia (except such laws as are of application in the General and Permanent Laws of the United States) in effect as of April 1, 2014.

This Supplement also updates the D.C. Code annotations by including notes taken from District of Columbia cases appearing in the following sources: Atlantic Reporter, 3d Series Supreme Court Reporter Federal Reporter, 3d Series Federal Supplement, 2d Series Bankruptcy Reporter.

Current legislation between pamphlets or pocket parts can be accessed online at [www.lexisnexis.com/advance](http://www.lexisnexis.com/advance), [www.lexisnexis.com/research](http://www.lexisnexis.com/research), and <http://dcclims1.dccouncil.us/lims>.

The unannotated District of Columbia Official Code can be accessed on the District of Columbia Council Website at <http://www.dccouncil.us>.

Later laws and annotations will be cumulated in subsequent annual Pocket Parts.

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LEXISNEXIS





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*Part 4. Rights of Third Parties.*

§ 28:9-406. **Discharge of account debtor; notification of assignment; identification and proof of assignment; restrictions on assignment of accounts, chattel paper, payment intangibles, and promissory notes ineffective.**

(a) Subject to subsections (b) through (i) of this section, an account debtor on an account, chattel paper, or a payment intangible may discharge its obligation by paying the assignor until, but not after, the account debtor receives a notification, authenticated by the assignor or the assignee, that the amount due or to become due has been assigned and that payment is to be made to the assignee. After receipt of the notification, the account debtor may discharge its obligation by paying the assignee and may not discharge the obligation by paying the assignor.

(b) Subject to subsection (h), notification is ineffective under subsection (a):

(1) If it does not reasonably identify the rights assigned;

(2) To the extent that an agreement between an account debtor and a seller of a payment intangible limits the account debtor's duty to pay a person other than the seller and the limitation is effective under law other than this article; or

(3) At the option of an account debtor, if the notification notifies the account debtor to make less than the full amount of any installment or other periodic payment to the assignee, even if:

(A) Only a portion of the account, chattel paper, or payment intangible has been assigned to that assignee;

(B) A portion has been assigned to another assignee; or

(C) The account debtor knows that the assignment to that assignee is limited.

(c) Subject to subsection (h), if requested by the account debtor, an assignee shall seasonably furnish reasonable proof that the assignment has been made. Unless the assignee complies, the account debtor may discharge its obligation by paying the assignor, even if the account debtor has received a notification under subsection (a).

(d) Except as otherwise provided in subsection (e) and §§ 28:2A-303 and 28:9-407, and subject to subsection (h), a term in an agreement between an account debtor and an assignor or in a promissory note is ineffective to the extent that it:

(1) Prohibits, restricts, or requires the consent of the account debtor or person obligated on the promissory note to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account, chattel paper, payment intangible, or promissory note; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account, chattel paper, payment intangible, or promissory note.

(e) Subsection (d) does not apply to the sale of a payment intangible or promissory note, other than a sale pursuant to a disposition under § 28:9-610 or an acceptance of collateral under § 28:9-620.

(f) Except as otherwise provided in §§ 28:2A-303 and 28:9-407 and subject to subsections (h) and (i), a rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, or account debtor to the assignment or transfer of, or creation of a security interest in, an account or chattel paper is ineffective to the extent that the rule of law, statute, or regulation:

(1) Prohibits, restricts, or requires the consent of the government, governmental body or official, or account debtor to the assignment or transfer of, or the creation, attachment, perfection, or enforcement of a security interest in, the account or chattel paper; or

(2) Provides that the assignment or transfer or the creation, attachment, perfection, or enforcement of the security interest may give rise to a default,



breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the account or chattel paper.

(g) Subject to subsection (h), an account debtor may not waive or vary its option under subsection (b)(3).

(h) This section is subject to law other than this article which establishes a different rule for an account debtor who is an individual and who incurred the obligation primarily for personal, family, or household purposes.

(i) This section does not apply to an assignment of a health-care-insurance receivable.

(Oct. 26, 2000, D.C. Law 13-201, § 101, 47 DCR 7576; May 1, 2013, D.C. Law 19-302, § 2(i), 60 DCR 2688.)

**Section references.** — This section is referenced in § 28:2-210, § 28:9-209, § 28:9-401, and § 28:9-405.

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-302 added “other than a sale pursuant to a disposition under § 28:9-610 or an acceptance of collateral under § 28:9-620” in (e).

**Legislative history of Law 19-302.** — See note to § 28:9-102.

**Editor’s notes.** — Applicability of D.C. Law 19-302: Section 4 of D.C. Law 19-302 provided that the act shall apply as of July 1, 2013.

## **§ 28:9-408. Restrictions on assignment of promissory notes, health-care-insurance receivables, and certain general intangibles ineffective.**

(a) Except as otherwise provided in subsection (b), a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or a general intangible, including a contract, permit, license, or franchise, and which term prohibits, restricts, or requires the consent of the person obligated on the promissory note or the account debtor to, the assignment or transfer of, or creation, attachment, or perfection of a security interest in, the promissory note, health-care-insurance receivable, or general intangible, is ineffective to the extent that the term:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(b) Subsection (a) applies to a security interest in a payment intangible or promissory note only if the security interest arises out of a sale of the payment intangible or promissory note, other than a sale pursuant to a disposition under § 28:9-610 or an acceptance of collateral under § 28:9-620.

(c) A rule of law, statute, or regulation that prohibits, restricts, or requires the consent of a government, governmental body or official, person obligated on a promissory note, or account debtor to the assignment or transfer of, or creation of a security interest in, a promissory note, health-care-insurance receivable, or general intangible, including a contract, permit, license, or

franchise between an account debtor and a debtor, is ineffective to the extent that the rule of law, statute, or regulation:

(1) Would impair the creation, attachment, or perfection of a security interest; or

(2) Provides that the assignment or transfer or the creation, attachment, or perfection of the security interest may give rise to a default, breach, right of recoupment, claim, defense, termination, right of termination, or remedy under the promissory note, health-care-insurance receivable, or general intangible.

(d) To the extent that a term in a promissory note or in an agreement between an account debtor and a debtor which relates to a health-care-insurance receivable or general intangible or a rule of law, statute, or regulation described in subsection (c) would be effective under law other than this article but is ineffective under subsection (a) or (c) of this section, the creation, attachment, or perfection of a security interest in the promissory note, health-care-insurance receivable, or general intangible:

(1) Is not enforceable against the person obligated on the promissory note or the account debtor;

(2) Does not impose a duty or obligation on the person obligated on the promissory note or the account debtor;

(3) Does not require the person obligated on the promissory note or the account debtor to recognize the security interest, pay or render performance to the secured party, or accept payment or performance from the secured party;

(4) Does not entitle the secured party to use or assign the debtor's rights under the promissory note, health-care-insurance receivable, or general intangible, including any related information or materials furnished to the debtor in the transaction giving rise to the promissory note, health-care-insurance receivable, or general intangible;

(5) Does not entitle the secured party to use, assign, possess, or have access to any trade secrets or confidential information of the person obligated on the promissory note or the account debtor; and

(6) Does not entitle the secured party to enforce the security interest in the promissory note, health-care-insurance receivable, or general intangible.

(Oct. 26, 2000, D.C. Law 13-201, § 101, 47 DCR 7576; May 1, 2013, D.C. Law 19-302, § 2(j), 60 DCR 2688.)

**Section references.** — This section is referenced in § 28:9-401.

**Effect of amendments.** — The 2013 amendment by D.C. Law 19-302 added “other than a sale pursuant to a disposition under § 28:9-610 or an acceptance of collateral under § 28:9-620” in (b).

**Legislative history of Law 19-302.** — See note to § 28:9-102.

**Editor's notes.** — Applicability of D.C. Law 19-302: Section 4 of D.C. Law 19-302 provided that the act shall apply as of July 1, 2013.



## SUBTITLE II. OTHER COMMERCIAL TRANSACTIONS.

## CHAPTER 33. INTEREST AND USURY.

## § 28-3301. Rate of interest expressed in contract.

**Section references.** — This section is referenced in § 28-9-201, § 28-3303, § 28-3311, § 31-1101, § 42-2403, and § 47-2884.10.

## CASE NOTES

**Investment activity or investment property.**

Plaintiff borrower's real estate transaction with defendant lenders did not fall under the D.C. Consumer Protections Act, D.C. Code § 28-3904, or D.C. usury laws, D.C. Code § 28-

3312, as she purchased the property for investment purposes rather than for personal, household, or family use as required by D.C. Code § 28-3301. *Bakeir v. Capital City Mortg. Corp.*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 28745 (D.D.C. Mar. 4, 2013).

## § 28-3302. Rate of interest not expressed and on judgments.

**Section references.** — This section is referenced in § 2-359.09, § 31-1101, § 31-4450, § 32-509, and § 32-1204.

## CASE NOTES

**Liabilities subject to statutory rate.**

Default judgment entered as sanction for complete failure to comply with discovery orders awarded compensatory damages on conversion and unjust enrichment claims, along with prejudgment interest, post-judgment interest, costs, and attorneys' fees. *Embassy of the Fed. Republic of Nig. v. Ugwuonye*, 297 F.R.D. 4, 2013 U.S. Dist. LEXIS 103381 (D.D.C. 2013).

Court assumed that D.C. Code § 28-3302 limited the interest that could be imposed on the back pay awarded under Title VII of the Civil Rights Act of 1964, District of Columbia (D.C.) Human Rights Act, and D.C. Whistleblower Protection Act, and used four percent as applicable interest rate. *Jean-Baptiste v. D.C.*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 101003 (D.D.C. July 19, 2013).

## § 28-3312. Unlawful practices.

**Section references.** — This section is referenced in § 28-3301.

## CASE NOTES

**Consumer credit transaction requirement.**

Plaintiff borrower's real estate transaction with defendant lenders did not fall under the D.C. Consumer Protections Act, D.C. Code § 28-3904, or D.C. usury laws, D.C. Code § 28-

3312, as she purchased the property for investment purposes rather than for personal, household, or family use as required by D.C. Code § 28-3301. *Bakeir v. Capital City Mortg. Corp.*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 28745 (D.D.C. Mar. 4, 2013).

CHAPTER 35. STATUTE OF FRAUDS.

§ 28-3504. New promise or acknowledgment of contract —  
Action against joint contractors.

CASE NOTES

**Time limitations.**  
Attorney’s counterclaim against the Nigerian Embassy sufficiently pleaded facts that would support a continuing contract between the attorney and the Embassy, so that the Embassy’s

motion to dismiss the counterclaim on the basis of the statute of limitations was denied. Embassy of the Fed. Republic of Nig. v. Ugwuonye, 901 F. Supp. 2d 136, 2012 U.S. Dist. LEXIS 157992 (D.D.C. Nov. 5, 2012).

CHAPTER 38. CONSUMER PROTECTIONS.

Subchapter I. General.

§ 28-3801. Scope — Limitation on agreements and practices.

CASE NOTES

**Construction and application.**  
As a state consumer protection act only applied to actions to enforce rights arising from a consumer credit sale or a direct installment loan, a claim by a condominium buyer and occupant against the real estate developer, arising from flooding in the unit, was not covered thereby; there were no allegations that they had any type of financing with the developer. Wetzel v. Capital City Real Estate, LLC, 73 A.3d 1000, 2013 D.C. App. LEXIS 501 (2013).

CHAPTER 39. CONSUMER PROTECTION PROCEDURES.

Sec.  
28-3901. Definitions and purposes.  
28-3904. Unlawful trade practices.

Sec.  
28-3905. Complaint procedures.

§ 28-3901. Definitions and purposes.

- (a) As used in this chapter, the term —
- (1) “person” means an individual, firm, corporation, partnership, cooperative, association, or any other organization, legal entity, or group of individuals however organized;
- (2) “consumer” means:
- (A) When used as a noun, a person who, other than for purposes of resale, does or would purchase, lease (as lessee), or receive consumer goods or services, including as a co-obligor or surety, or does or would otherwise provide the economic demand for a trade practice;
- (B) When used as an adjective, describes anything, without exception, that:



(i) A person does or would purchase, lease (as lessee), or receive and normally use for personal, household, or family purposes; or

(ii) A person described in § 28-3905(k)(1)(B) or (C) purchases or receives in order to test or evaluate qualities pertaining to use for personal, household, or family purposes.

(3) “merchant” means a person, whether organized or operating for profit or for a nonprofit purpose, who in the ordinary course of business does or would sell, lease (to), or transfer, either directly or indirectly, consumer goods or services, or a person who in the ordinary course of business does or would supply the goods or services which are or would be the subject matter of a trade practice;

(4) “complainant” means one or more consumers who took part in a trade practice, or one or more persons acting on behalf of (not the legal representative or other counsel of) such consumers, or the successors or assigns of such consumers or persons, once such consumers or persons complain to the Department about the trade practice;

(5) “respondent” means one or more merchants alleged by a complainant to have taken part in or carried out a trade practice, or the successors or assigns of such merchants, and includes other persons who may be deemed legally responsible for the trade practice;

(6) “trade practice” means any act which does or would create, alter, repair, furnish, make available, provide information about, or, directly or indirectly, solicit or offer for or effectuate, a sale, lease or transfer, of consumer goods or services;

(7) “goods and services” means any and all parts of the economic output of society, at any stage or related or necessary point in the economic process, and includes consumer credit, franchises, business opportunities, real estate transactions, and consumer services of all types;

(8) “Department” means the Department of Consumer and Regulatory Affairs;

(9) “Director” means the Director of the Department of Consumer and Regulatory Affairs;

(10) “Chief of the Office of Compliance” means the senior administrative officer of the Department’s Office of Compliance who is delegated the responsibility of carrying out certain duties specified under section 28-3905;

(11) “Office of Adjudication” means the Department’s Office of Adjudication which is responsible for carrying out certain duties specified under section 28-3905;

(12) “Office of Consumer Protection” means the Department’s Office of Consumer Protection which is responsible for carrying out the statutory requirements set forth in § 28-3906; and

(13) “Committee” means the Advisory Committee on Consumer Protection which is responsible for carrying out the statutory requirements set forth in section 28-3907.

(14) “nonprofit organization” means a person who:

(A) Is not an individual; and

(B) Is neither organized nor operating, in whole or in significant part, for profit.



(15) “public interest organization” means a nonprofit organization that is organized and operating, in whole or in part, for the purpose of promoting interests or rights of consumers.

(b) The purposes of this chapter are to:

(1) assure that a just mechanism exists to remedy all improper trade practices and deter the continuing use of such practices;

(2) promote, through effective enforcement, fair business practices throughout the community; and

(3) educate consumers to demand high standards and seek proper redress of grievances.

(c) This chapter shall be construed and applied liberally to promote its purpose. This chapter establishes an enforceable right to truthful information from merchants about consumer goods and services that are or would be purchased, leased, or received in the District of Columbia.

(July 22, 1976, D.C. Law 1-76, § 2, 23 DCR 1185; enacted, Sept. 6, 1980, D.C. Law 3-85, § 3(a), (d), 27 DCR 2900; Mar. 8, 1991, D.C. Law 8-234, § 2(b), 38 DCR 296; Feb. 5, 1994, D.C. Law 10-68, § 27(b), 40 DCR 6311; Apr. 9, 1997, D.C. Law 11-255, § 27(u), 44 DCR 1271; Oct. 19, 2000, D.C. Law 13-172, § 1402(b), 47 DCR 6308; Oct. 20, 2005, D.C. Law 16-33, § 2032(b), 52 DCR 7503; June 12, 2007, D.C. Law 17-4, § 2(a), 54 DCR 4085; Apr. 23, 2013, D.C. Law 19-282, § 2(b)(1), 60 DCR 2132.)

**Section references.** — This section is referenced in § 1-350.10, § 28-3301, and § 28-3905.

**Effect of amendments.**

The 2013 amendment by D.C. Law 19-282 rewrote (a)(2); added (a)(14) and (a)(15); and added the last sentence in (c).

**Legislative history of Law 19-282.** — Law 19-282, the “Consumer Protection Amendment

Act of 2012,” was introduced in Council and assigned Bill No. 19-581. The Bill was adopted on first and second readings on Dec. 4, 2012 and Dec. 18, 2012, respectively. Signed by the Mayor on Jan. 25, 2013, it was assigned Act No. 19-647 and transmitted to Congress for its review. D.C. Law 19-282 became effective on April 23, 2013.

## CASE NOTES

### ANALYSIS

Choice of law.

Construction with other laws.

Consumer transactions.

### Choice of law.

Summary judgment was properly granted for the doctor and his employer on the patient’s claim under the District of Columbia Consumer Protection Procedures Act because Maryland had a greater governmental interest in the dispute. The relationship between the parties was predominantly centered in Maryland, where the allegedly deceptive statements were made, where the surgical procedure took place, and where all but two post-operative visits occurred. *Jones v. Clinch*, 73 A.3d 80, 2013 D.C. App. LEXIS 437 (2013).

### Construction with other laws.

Because an assignee’s conduct did not mate-

rially affected the foreclosure process or actually harm a personal representative, the trial court properly granted judgment on the pleadings to the assignee on the her claims under the Consumer Protection Procedures Act. *Rose v. Wells Fargo Bank, N.A.*, 73 A.3d 1047, 2013 D.C. App. LEXIS 529 (2013).

### Consumer transactions.

Though the District of Columbia Consumer Protection Procedures Act (CPPA), D.C. Code § 28-3901 et seq., claims in the complaint arose out of an insurance policy obtained by defendant mortgagee in connection with plaintiff’s business, the plaintiff failed to allege facts sufficient to show her CPPA claims arose from a consumer transaction, therefore all of plaintiff’s CPPA claims were dismissed. *Cannon v. Wells Fargo Bank, N.A.*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 27927 (D.D.C. Mar. 1, 2013).

## § 28-3903. Powers of the consumer protection agency.

**Section references.** — This section is referenced in § 28-3905, § 28-3906, and § 28-4002.

### CASE NOTES

#### **Landlord-tenant claims.**

Plaintiffs' claim that their landlord's practices in leasing parking spots at their apartment complex violated the District of Columbia Consumer Protection Procedures Acts was not a landlord-tenant claim barred by D.C. Code § 28-3903(c)(2)(A); although plaintiffs were apartment residents, all customers of the landlord's parking facility could bring a similar claim. *Chaney v. Capitol Park Assocs.*, — WLR —, 2013 D.C. Super. LEXIS 2 (Mar. 11, 2013).

Because the District of Columbia's Consumer Protection Procedures Act specifically excluded the professional services of lawyers from its purview, the trial court properly dismissed a client's count brought against a law firm. *Pietrangelo v. Wilmer Cutler Pickering Hale & Dorr, LLP*, 68 A.3d 697, 2013 D.C. App. LEXIS 154 (2013).

## § 28-3904. Unlawful trade practices.

It shall be a violation of this chapter, whether or not any consumer is in fact misled, deceived or damaged thereby, for any person to:

(a) represent that goods or services have a source, sponsorship, approval, certification, accessories, characteristics, ingredients, uses, benefits, or quantities that they do not have;

(b) represent that the person has a sponsorship, approval, status, affiliation, certification, or connection that the person does not have;

(c) represent that goods are original or new if in fact they are deteriorated, altered, reconditioned, reclaimed, or second hand, or have been used;

(d) represent that goods or services are of particular standard, quality, grade, style, or model, if in fact they are of another;

(e) misrepresent as to a material fact which has a tendency to mislead;

(e-1) [r]epresent that a transaction confers or involves rights, remedies, or obligations which it does not have or involve, or which are prohibited by law;

(f) fail to state a material fact if such failure tends to mislead;

(f-1) [u]se innuendo or ambiguity as to a material fact, which has a tendency to mislead;

(g) disparage the goods, services, or business of another by false or misleading representations of material facts;

(h) advertise or offer goods or services without the intent to sell them or without the intent to sell them as advertised or offered;

(i) advertise or offer goods or services without supplying reasonably expected public demand, unless the advertisement or offer discloses a limitation of quantity or other qualifying condition which has no tendency to mislead;

(j) make false or misleading representations of fact concerning the reasons for, existence of, or amounts of price reductions, or the price in comparison to price of competitors or one's own price at a past or future time;

(k) falsely state that services, replacements, or repairs are needed;



(l) falsely state the reasons for offering or supplying goods or services at sale or discount prices;

(m) harass, or threaten a consumer with any act other than legal process, either by telephone, cards, or letters;

(n) cease work on, or return after ceasing work on, an electrical or mechanical apparatus, appliance, chattel or other goods, or merchandise, in other than the condition contracted for, or to impose a separate charge to reassemble or restore such an object to such a condition without notification of such charge prior to beginning work on or receiving such object;

(o) replace parts or components in an electrical or mechanical apparatus, appliance, chattel or other goods, or merchandise when such parts or components are not defective, unless requested by the consumer;

(p) falsely state or represent that repairs, alterations, modifications, or servicing have been made and receiving remuneration therefor when they have not been made;

(q) fail to supply to a consumer a copy of a sales or service contract, lease, promissory note, trust agreement, or other evidence of indebtedness which the consumer may execute;

(r) make or enforce unconscionable terms or provisions of sales or leases; in applying this subsection, consideration shall be given to the following, and other factors:

(1) knowledge by the person at the time credit sales are consummated that there was no reasonable probability of payment in full of the obligation by the consumer;

(2) knowledge by the person at the time of the sale or lease of the inability of the consumer to receive substantial benefits from the property or services sold or leased;

(3) gross disparity between the price of the property or services sold or leased and the value of the property or services measured by the price at which similar property or services are readily obtainable in transactions by like buyers or lessees;

(4) that the person contracted for or received separate charges for insurance with respect to credit sales with the effect of making the sales, considered as a whole, unconscionable; and

(5) that the person has knowingly taken advantage of the inability of the consumer reasonably to protect his interests by reasons of age, physical or mental infirmities, ignorance, illiteracy, or inability to understand the language of the agreement, or similar factors;

(s) pass off goods or services as those of another;

(t) use deceptive representations or designations of geographic origin in connection with goods or services;

(u) represent that the subject of a transaction has been supplied in accordance with a previous representation when it has not;

(v) misrepresent the authority of a salesman, representative or agent to negotiate the final terms of a transaction;

(w) offer for sale or distribute any consumer product which is not in conformity with an applicable consumer product safety standard or has been

ruled a banned hazardous product under the federal Consumer Product Safety Act (15 U.S.C. § 2051-83), without holding a certificate issued in accordance with section 14(a) of that Act to the effect that such consumer product conforms to all applicable consumer product safety rules (unless the certificate holder knows that such consumer product does not conform), or without relying in good faith on the representation of the manufacturer or a distributor of such product that the product is not subject to a consumer product safety rule issued under that Act;

(x) sell consumer goods in a condition or manner not consistent with that warranted by operation of sections 28:2-312 through 318 of the District of Columbia Official Code, or by operation or requirement of federal law;

(y) violate any provision of the District of Columbia Consumer LayAway Plan Act (section 28-3818);

(z) violate any provision of the Rental Housing Locator Consumer Protection Act of 1979 (section 28-3819) or, if a rental housing locator, to refuse or fail to honor any obligation under a rental housing locator contract;

(z-1) violate any provision of Chapter 46 of this title;

(aa) violate any provision of sections 32-404, 32-405, 32-406, and 32-407;

(bb) refuse to provide the repairs, refunds, or replacement motor vehicles or fails to provide the disclosures of defects or damages required by the Automobile Consumer Protection Act of 1984;

(cc) violate any provision of the Real Property Credit Line Deed of Trust Act of 1987;

(dd) violate any provision of title 16 of the District of Columbia Municipal Regulations;

(ee) violate any provision of the Public Insurance Adjuster Act of 2002 [Chapter 16A of Title 31];

(ff) violate any provision of Chapter 33 of this title;

(gg) violate any provision of the Home Equity Protection Act of 2007 [Chapter 24A of Title 42]; or

(hh) fail to make a disclosure as required by § 26-1113(a-1).

(July 22, 1976, D.C. Law 1-76, § 5, 23 DCR 1185; Oct. 4, 1978, D.C. Law 2-115, § 3, 25 DCR 1997; June 21, 1980, D.C. Law 3-71, § 3(a), 27 DCR 1891; enacted, Sept. 6, 1980, D.C. Law 3-85, § 3(a), (d), 27 DCR 2900; Mar. 13, 1985, D.C. Law 5-136, § 16, 31 DCR 5727; Mar. 14, 1985, D.C. Law 5-162, § 9(a), 32 DCR 160; Jan. 28, 1988, D.C. Law 7-67, § 5, 34 DCR 7441; Mar. 8, 1991, D.C. Law 8-234, § 2(e), 38 DCR 296; Mar. 8, 1991, D.C. Law 8-236, § 9, 38 DCR 306; Feb. 5, 1994, D.C. Law 10-68, § 27(e), 40 DCR 6311; July 25, 1995, D.C. Law 11-30, § 7(h), 42 DCR 1547; Apr. 9, 1997, D.C. Law 11-255, § 27(x), 44 DCR 1271; Mar. 27, 2003, D.C. Law 14-256, § 11(b), 50 DCR 238; Mar. 13, 2004, D.C. Law 15-105, § 63, 51 DCR 881; Nov. 24, 2007, D.C. Law 17-42, § 3(b), 54 DCR 9988; Jan. 29, 2008, D.C. Law 17-87, § 7, 54 DCR 11913; Jan. 29, 2008, D.C. Law 17-90, § 3, 54 DCR 11925; Mar. 25, 2009, D.C. Law 17-353, § 222, 56 DCR 1117; Apr. 23, 2013, D.C. Law 19-282, § 2(b)(2), 60 DCR 2132.)



**Section references.** — This section is referenced in § 16-4431, § 28-3905, § 28-3909, § 28-4006, and § 38-1312.

**Effect of amendments.**

The 2013 amendment by D.C. Law 19-282 added (e-1) and (f-1).

**Legislative history of Law 19-282.** — See note to § 28-3901.

## CASE NOTES

### ANALYSIS

Foreclosures.  
Fraudulent representations.  
Insurance contracts and policies.  
Misleading representations.  
Pleadings.  
Preemption.  
Real estate transactions.  
Standing.

### Foreclosures.

Borrower's claim of wrongful foreclosure brought under the D.C. Consumer Protection Procedures Act, D.C. Code § 28-3904 (2001), was time barred pursuant to D.C. Code § 12-301 because the claim accrued when the lender initiated foreclosure proceedings on February 13, 2009, and the borrower filed suit on March 21, 2009, which was more than three years after the claim accrued. *Koker v. Aurora Loan Servicing*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 497 (D.D.C. Jan. 3, 2013).

Where a borrower's claim of wrongful foreclosure brought under the D.C. Consumer Protection Procedures Act, D.C. Code § 28-3904 (2001), was time-barred pursuant to D.C. Code § 12-301, equitable estoppel was inapplicable because the allegations of the complaint indicated that the borrower had all the facts necessary to bring her claim when the foreclosure proceedings were initiated. *Koker v. Aurora Loan Servicing*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 497 (D.D.C. Jan. 3, 2013).

Where a borrower's claim of wrongful foreclosure brought under the D.C. Consumer Protection Procedures Act, D.C. Code § 28-3904 (2001), was time-barred pursuant to D.C. Code § 12-301, the discovery rule was inapplicable because the fact of the borrower's injury was readily determined since the injury was based on initiation of foreclosure proceedings and thus, the claim accrued when the injury actually occurred. *Koker v. Aurora Loan Servicing*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 497 (D.D.C. Jan. 3, 2013).

### Fraudulent representations.

Condominium buyer and occupant stated claims against the real estate developer that survived challenge by a motion to dismiss, as their allegations regarding numerous misrepresentations as to the condition of the condominium, which ultimately suffered property

damage due to flooding and water damage, were statutorily sufficient. *Wetzel v. Capital City Real Estate, LLC*, 73 A.3d 1000, 2013 D.C. App. LEXIS 501 (2013).

### Insurance contracts and policies.

Plaintiff alleged that defendant insurers violated D.C. Code § 28-3904(u) based on the allegedly excessive premium for a policy obtained by defendant mortgagee, but subsection (u) applied only to representations that the subject of a transaction had been supplied in accordance with a previous representation when it had not, so the complaint failed to state a claim to relief that was plausible on its face. *Cannon v. Wells Fargo Bank, N.A.*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 27927 (D.D.C. Mar. 1, 2013).

### Misleading representations.

While a notice was material because a significant number of unsophisticated consumers could find the information in the notice important in determining a course of action regarding their purchase of a condominium unit, the actual determination of whether the notice would be both material and misleading with respect to the unit owners who did not receive it, or who questioned whether they received it, was a question of fact for the jury and not a question of law for the court. *Saucier v. Countrywide Home Loans*, 64 A.3d 428, 2013 D.C. App. LEXIS 164 (2013).

Summary judgment in favor of a mortgage company as to the condominium unit owners' claims under D.C. Code § 28-3904(e) was proper since the unit owners failed to establish that the mortgage company and bank made an affirmative or implied misrepresentation, and hence, they could not prevail on their subsection (e) claim. *Saucier v. Countrywide Home Loans*, 64 A.3d 428, 2013 D.C. App. LEXIS 164 (2013).

### Pleadings.

D.C. Code § 28-3904(f) does not require a plaintiff to plead and to prove a duty to disclose information. *Saucier v. Countrywide Home Loans*, 64 A.3d 428, 2013 D.C. App. LEXIS 164 (2013).

Under D.C. Code § 28-3904(f), plaintiffs must show that the omitted information is material and has a tendency to mislead. *Sauc-*



ier v. Countrywide Home Loans, 64 A.3d 428, 2013 D.C. App. LEXIS 164 (2013).

#### **Preemption.**

Mortgagor's claim that mortgagee, note holder, bank holding company, and others violated the District of Columbia Consumer Protection Procedures Act (CPPA) by making misrepresentations in her loan documents was preempted by the Home Owners' Loan Act (HOLA) and regulation preempting state laws purporting to regulate credit activities of federal savings associations, where the claim, specifically linked to the loan documents, had a substantial effect on disclosures defendants were allowed to make under HOLA, as well as origination of their loans, loan-related fees, and terms of credit, amortization of loans, and deferral and capitalization of interest. *Poindexter v. Wachovia Mortg. Corp.*, 851 F.Supp.2d 121, 2012 U.S. Dist. LEXIS 45144 (2012).

#### **Real estate transactions.**

Plaintiff borrower's real estate transaction with defendant lenders did not fall under the D.C. Consumer Protections Act, D.C. Code § 28-3904, or D.C. usury laws, D.C. Code § 28-3312, as she purchased the property for investment purposes rather than for personal, household, or family use as required by D.C. Code § 28-3301. *Bakeir v. Capital City Mortg. Corp.*, — F. Supp. 2d —, 2013 U.S. Dist. LEXIS 28745 (D.D.C. Mar. 4, 2013).

Trial court erred in dismissing a mortgagor's claim under the District of Columbia Consumer Protection Procedures Act (CPPA) on statute of

limitations grounds because the court of appeals had not have not decided whether the CPPA applied to the trade practices of a mortgage loan servicer, and it was not prepared to do so without further elucidation by the trial court and the parties; accordingly, the case was remanded. *Logan v. Lasalle Bank Nat'l Ass'n*, 80 A.3d 1014, 2013 D.C. App. LEXIS 793 (2013).

#### **Standing.**

Court dismissed customers' suit alleging a bank violated the District of Columbia Consumer Protection Procedures Act (CPPA), D.C. Code § 28-3901 et seq., by transferring their calls and providing their personal and financial information to foreign call centers without their consent; the customers lacked standing to bring claims under the CPPA because they did not sufficiently allege an actual or imminent injury that was neither conjectural nor hypothetical. *Floyd v. Bank of Am. Corp.*, — WLR —, 2012 D.C. Super. LEXIS 8 (Apr. 26, 2012).

Condominium association established that it suffered an injury-in-fact through the testimony of its corporate designee as to the amount the association paid for a new roof, and through the confirming statement of the appraisal expert that the association paid approximately \$60,000 to replace the roof where the funds used to pay for the roof replacement came from fees paid to the condominium association by unit owners; thus, the sum paid represented a concrete, actual injury. *Saucier v. Countrywide Home Loans*, 64 A.3d 428, 2013 D.C. App. LEXIS 164 (2013).

## **§ 28-3905. Complaint procedures.**

(a) A case is begun by filing with the Department a complaint plainly describing a trade practice and stating the complainant's (and, if different, the consumer's) name and address, the name and address (if known) of the respondent, and such other information as the Director may require. The complaint must be in or reduced by the Director to writing. The filing of a complaint with the Department shall toll the periods for limitation of time for bringing an action as set out in section 12-301 until the complaint has been resolved through an administrative order, consent decree, or dismissal in accordance with this section or until an opportunity to arbitrate has been provided in Chapter 5 of Title 50.

(b)(1) Except as provided in paragraph (2) of this subsection, the Director shall investigate each such complaint and determine:

(A) What trade practice actually occurred; and

(B) Whether the trade practice which occurred violates any statute, regulation, rule of common law, or other law of the District of Columbia.

(2) The Director may, in his or her discretion, decline to prosecute certain cases as necessary to manage the Department's caseload and control program costs.

(b-1) In carrying out an investigation and determination pursuant to subsection (b) of this section, the Director shall consult the respondent and such other available sources of information, and make such other efforts, as are appropriate and necessary to carry out such duties.

(c) If at any time the Director finds that the trade practice complained of may, in whole or in part, be a violation of law other than a law of the District of Columbia or a law within the jurisdiction of the Department, the Director may in writing so inform the complainant, respondent and officials of the District, the United States, or other jurisdiction, who would properly enforce such law.

(d) The director shall determine that there are, or are not, reasonable grounds to believe that a trade practice, in violation of a law of the District of Columbia within the jurisdiction of the Department, has occurred in any part or all of the case. The Director may find that there are not such reasonable grounds for any of the following reasons:

(1) any violation of law which may have occurred is of a law not of the District of Columbia or not within the jurisdiction of the Department, or occurred more than three years prior to the filing of the complaint;

(2) in case paragraph (1) of this subsection does not apply, no trade practice occurred in violation of any law of the District;

(3) the respondent cannot be identified or located, or would not be subject to the personal jurisdiction of a District of Columbia court;

(4) the complainant, to the Director's knowledge, no longer seeks redress in the case;

(5) the complainant and respondent, to the Director's knowledge, have themselves reached an agreement which settles the case; or

(6) the complainant can no longer be located.

(d-1) The Director may dismiss any part or all of a case to which one or more of the reasons stated in subsection (d) of this section apply. The Director shall inform all parties in writing of the determination, and, if any part or all of the case is dismissed, shall specify which of the reasons in this subsection applies to which part of the case, and such other detail as is necessary to explain the dismissal.

(e) The Director may attempt to settle, in accordance with subsection (h) of this section, each case for which reasonable grounds are found in accordance with subsection (d-1) of this section. After the Director's determination as to whether the complaint is within the Department's jurisdiction, in accordance with subsection (d-1) of this section, the Director shall:

(1) effect a consent decree;

(2) dismiss the case in accordance with subsection (h)(2) of this section;

(3) through the Chief of the Office of Compliance present to the Office of Adjudication, with copies to all parties, a brief and plain statement of each trade practice that occurred in violation of District law, the law the trade practice violates, and the relief sought from the Office of Adjudication for violation; or

(4) notify all parties of another action taken, with the reasons therefor stated in detail and supported by fact. Reasons may include:



(A) any reason listed in subsections (d)(1) through (d)(6) of this section; and

(B) that the presentation of a charge to the Office of Adjudication would not serve the purposes of this chapter.

(5) Repealed.

(f) When the case is transmitted to the Office of Adjudication, the Chief of the Office of Compliance shall sign, and serve the respondent, the Department's summons to answer or appear before the Office of Adjudication. Not less than 15 nor more than 90 days after such transmittal, the case shall be heard. The case shall proceed under section 10 of the District of Columbia Administrative Procedure Act (section 2-509). The Office of Adjudication may, without delaying its hearing or decision, attempt to settle the case pursuant to subsection (h) of this section, and has discretion to permit any stipulation or consent decree the parties agree to. The Director shall be a party on behalf of the complainant. Applications to intervene shall be decided as may be proper or required by law or rule. Reasonable discovery shall be freely allowed. Any finding or decision may be modified or set aside, in whole or part, before a notice of appeal is filed in the case, or the time to so file has run out.

(g) If, after hearing the evidence, the Office of Adjudication decides a trade practice occurred in which the respondent violated a law of the District of Columbia within the jurisdiction of the Department, such Office of Adjudication shall issue an order which:

(1) shall require the respondent to cease and desist from such conduct;

(2) shall, if such Office of Adjudication also decides that the consumer has been injured by the trade practice, order redress through contract damages, restitution for money, time, property or other value received from the consumer by the respondent, or through rescission, reformation, repair, replacement, or other just method;

(3) shall state the number of trade practices the respondent performed in violation of law;

(4) shall, absent good cause found by the Office of Adjudication, require the respondent to pay the Department its costs for investigation, negotiation, and hearing;

(5) may include such other findings, stipulations, conditions, directives, and remedies including punitive damages, treble damages, or reasonable attorney's fees, as are reasonable and necessary to identify, correct, or prevent the conduct which violated District law; and

(6) may be based, in whole or part, upon a violation of a law establishing or regulating a type of business, occupational or professional license or permit, and may refer the case for further proceedings to an appropriate board or commission, but may not suspend or revoke a license or permit if there is a board or commission which oversees the specific type of license or permit.

(h)(1) At any time after reasonable grounds are found in accordance with subsection (d) of this section, the respondent, the Department (represented by (i) the Director prior to transmittal to the Office of Adjudication and after an order issued pursuant to subsection (f) of this section has been appealed, and (ii) the Office of Adjudication after transmittal to the Office of Adjudication and

prior to such appeal), and the complainant, may agree to settle all or part of the case by a written consent decree which may:

(A) include any provision described in subsection (g)(2) through (6) of this section;

(B) not contain an assertion that the respondent has violated a law;

(C) contain an assurance that the respondent will refrain from a trade practice;

(D) bar the Department from further action in the case, or a part thereof; or

(E) contain such other provisions or considerations as the parties agree to.

(2) The representative of the Department shall administer the settlement proceedings, and may utilize the good offices of the Advisory Committee on Consumer Protection. All settlement proceedings shall be informal and include all interested parties and such representatives as the parties may choose to represent them. Such proceedings shall be private, and nothing said or done, except a consent decree, shall be made public by the Department, any party, or the Advisory Committee, unless the parties agree thereto in writing. The representative of the Department may call settlement conferences. For persistent and unreasonable failure by the complainant to attend such conferences or to take part in other settlement proceedings, the Director, prior to transmittal to the Office of Adjudication, may dismiss the case.

(3) A consent decree described in paragraph (1) of this subsection may be modified by agreement of the Department, complainant and respondent.

(i)(1) An aggrieved party may appeal to the District of Columbia Court of Appeals after:

(A) the Office of Adjudication decides a case pursuant to subsection (f) of this section;

(B) all parts of a case have been dismissed by operation of subsection (d) or (e) of this section; or

(C) the Director dismisses an entire case in accordance with subsection (h)(2) of this section.

(1A) Such appeals shall be conducted in accordance with the procedures and standards of section 11 of the District of Columbia Administrative Procedure Act (section 2-510), and take into account the procedural duties placed upon the Department in this section and all actions taken by the Department in the case.

(2) An aggrieved party may appeal any ruling of the Office of Adjudication under subsection (j) of this section to the Superior Court of the District of Columbia.

(3)(A) Any person found to have executed a trade practice in violation of a law of the District of Columbia within the jurisdiction of the Department:

(i) shall be liable to the Department for a civil penalty of not exceeding \$1000.00 for each violation enumerated in an order pursuant to subsection (g)(3) of this section; and

(ii) may be assessed and made liable to the Department for a civil penalty of not exceeding \$1000.00 for each violation or failure to adhere to a



provision, of an order described in subsection (f), (g), or (j) of this section or a consent decree described in subsection (h) of this section.

(B) The Department, the complainant, or the respondent may sue in the Superior Court of the District of Columbia for a remedy, enforcement, or assessment or collection of a civil penalty, when any violation, or failure to adhere to a provision of a consent decree described in subsection (h) of this section, or an order described in subsection (f), (g), or (j) of this section, has occurred. The Department shall sue in that Court for assessment of a civil penalty when an order described in subsection (g) of this section has been issued and become final. A failure by the Department or any person to file suit or prosecute under this subparagraph in regard to any provision or violation of a provision of any consent decree or order, shall not constitute a waiver of such provision or any right under such provision. The Court shall levy the appropriate civil penalties, and may order, if supported by evidence, temporary, preliminary, or permanent injunctions, damages, treble damages, reasonable attorney's fees, consumer redress, or other remedy. The Court may set aside the final order if the Court determines that the Department of Consumer and Regulatory Affairs lacked jurisdiction over the respondent or that the complaint was frivolous. If, after considering an application to set aside an order of the Department of Consumer and Regulatory Affairs, the Court determines that the application was frivolous or that the Department of Consumer and Regulatory Affairs lacked jurisdiction, the Court shall award reasonable attorney's fees.

(C) Application to the Court to enforce an order shall be made at no cost to the District of Columbia or the complainant.

(4) The Corporation Counsel shall represent the Department in all proceedings described in this subsection.

(j) If, at any time before notice of appeal from a decision made according to subsection (f) of this section is filed or the time to so file has run out, the Director believes that legal action is necessary to preserve the subject matter of the case, to prevent further injury to any party, or to enable the Department ultimately to order a full and fair remedy in the case, the Chief of the Office of Compliance shall present the matter to the Office of Adjudication, which may issue a cease and desist order to take effect immediately, or grant such other relief as will assure a just adjudication of the case, in accordance with such beliefs of the Director which are substantiated by evidence. The Office of Adjudication's ruling may be appealed to court within 7 days of notice thereof on the Director, respondent, and complainant.

(k)(1)(A) A consumer may bring an action seeking relief from the use of a trade practice in violation of a law of the District.

(B) An individual may, on behalf of that individual, or on behalf of both the individual and the general public, bring an action seeking relief from the use of a trade practice in violation of a law of the District when that trade practice involves consumer goods or services that the individual purchased or received in order to test or evaluate qualities pertaining to use for personal, household, or family purposes.

(C) A nonprofit organization may, on behalf of itself or any of its members, or on any such behalf and on behalf of the general public, bring an



action seeking relief from the use of a trade practice in violation of a law of the District, including a violation involving consumer goods or services that the organization purchased or received in order to test or evaluate qualities pertaining to use for personal, household, or family purposes.

(D)(i) Subject to sub-subparagraph (ii) of this subparagraph, a public interest organization may, on behalf of the interests of a consumer or a class of consumers, bring an action seeking relief from the use by any person of a trade practice in violation of a law of the District if the consumer or class could bring an action under subparagraph (A) of this paragraph for relief from such use by such person of such trade practice.

(ii) An action brought under sub-subparagraph (i) of this subparagraph shall be dismissed if the court determines that the public interest organization does not have sufficient nexus to the interests involved of the consumer or class to adequately represent those interests.

(2) Any claim under this chapter shall be brought in the Superior Court of the District of Columbia and may recover or obtain the following remedies:

(A) Treble damages, or \$1,500 per violation, whichever is greater, payable to the consumer;

(B) Reasonable attorney's fees;

(C) Punitive damages;

(D) An injunction against the use of the unlawful trade practice;

(E) In representative actions, additional relief as may be necessary to restore to the consumer money or property, real or personal, which may have been acquired by means of the unlawful trade practice; or

(F) Any other relief which the court determines proper.

(3) Any written decision made pursuant to subsection (f) of this section is admissible as prima facie evidence of the facts stated therein.

(4) If a merchant files in any court a suit seeking to collect a debt arising out of a trade practice from which has also arisen a complaint filed with the Department by the defendant in the suit either before or after the suit was filed, the court shall dismiss the suit without prejudice, or remand it to the Department.

(5) An action brought by a person under this subsection against a nonprofit organization shall not be based on membership in such organization, membership services, training or credentialing activities, sale of publications of the nonprofit organization, medical or legal malpractice, or any other transaction, interaction, or dispute not arising from the purchase or sale of consumer goods or services in the ordinary course of business.

(l) The Director and Office of Adjudication may use any power granted to the Department in section 28-3903, as each reasonably deems will aid in carrying out the functions assigned to each in this section. Each, while holding the primary responsibility of the Department for decision in a certain case, may join such case with others then before the Department. No case may be disposed of in a manner not expressly authorized in this section. Every complaint case filed with the Department and within its jurisdiction shall be decided in accordance with the procedures and sanctions of this section, notwithstanding that a given trade practice, at issue in the case, may be

governed in whole or in part by another law which has different enforcement procedures and sanctions.

(m)(1) Whenever requested, the Department will make available to the complainant and respondent an explanation, and any other information helpful in understanding, the provisions of any consent decree to which the Department agrees, and any order or decision which the Department makes.

(2) The Director shall maintain a public index for all the cases on which the Department has made a final action or a consent decree, organized by:

(A) name of complainant;

(B) name of respondent;

(C) industry of the merchant involved;

(D) nature of the violation of District law alleged or found to exist (for example, subsection of section 28-3904 involved, or section of a licensing law involved);

(E) final disposition.

(n) There shall be established a Consumer Protection Education Fund ("Fund"). All monies awarded to or paid to the Department by operation of this section, including final judgements, consent decrees, or settlements reduced to final judgements, shall be paid into the Fund in order to further the purpose of this chapter as enumerated in § 28-3901.

(o) Every complaint case that is before the Department in accordance with this section shall proceed in confidence, except for hearings and meetings before the Office of Adjudication, until the Department makes a final action or a consent decree.

(p) The Director may file a complaint in accordance with subsection (a) of this section, on behalf of one or more consumers or as complainant, based on evidence and information gathered by the Department in carrying out this chapter. Persons not parties to but directly or indirectly intended as beneficiaries of an order described in subsection (f), (g), or (j) of this section, or a consent decree described in subsection (h) of this section, arising out of a complaint filed by the Director, may enforce such order or decree in the manner provided in subsection (i)(3)(B) of this section.

(q) At any hearing pursuant to subsection (f) or (j) of this section, a witness has the right to be advised by counsel present at such hearing. In any process under this section, the complainant and respondent may have legal or other counsel for representation and advice.

(r) All cases for which complaints were filed before March 5, 1981, may be presented to and heard by the Office of Adjudication notwithstanding the time limits previously provided in section 28-3905(d), 28-3905(e), and 28-3905(f) for the investigation and transmittal of cases to the Office of Adjudication, and for the hearing of cases by the Office of Adjudication.

(July 22, 1976, D.C. Law 1-76, § 6, 23 DCR 1185; June 11, 1977, D.C. Law 2-8, § 4(b), 24 DCR 726; enacted, Sept. 6, 1980, D.C. Law 3-85, § 3(a), (d), 27 DCR 2900; Mar. 5, 1981, D.C. Law 3-159, §§ 2(b), (c), 3, 27 DCR 5147; Mar. 8, 1991, D.C. Law 8-234, § 2(f), 38 DCR 296; Feb. 5, 1994, D.C. Law 10-68, § 27(f), 40 DCR 6311; Apr. 9, 1997, D.C. Law 11-255, § 27(y), 44 DCR 1271; Apr. 29, 1998,



D.C. Law 12-86, § 1301(c), 45 DCR 1172; Oct. 19, 2000, D.C. Law 13-172, § 1402(d), 47 DCR 6308; Oct. 20, 2005, D.C. Law 16-33, § 2032(d), 52 DCR 7503; June 12, 2007, D.C. Law 17-4, § 2(b), 54 DCR 4085; Apr. 23, 2013, D.C. Law 19-282, § 2(b)(3), 60 DCR 2132.)

**Section references.** — This section is referenced in § 28-3818, § 28-3901, § 28-3902, § 28-3903, § 28-3906, and § 28-4002.

**Effect of amendments.**

The 2013 amendment by D.C. Law 19-282 rewrote (k)(1) and (k)(2).

**Legislative history of Law 19-282.** — See note to § 28-3901.

CASE NOTES

ANALYSIS

Consumer transactions.  
Judicial proceedings.  
Standing.

**Consumer transactions.**

Psychologists’ association and its lobbying arm were exempt from psychologists’ consumer protection action, under District of Columbia’s Consumer Protection Procedures Act (CPPA), arising out of association’s alleged misrepresentations that special assessment paid by psychologists to association for use by lobbying arm was required for membership in association, as psychologists’ claims were based on membership in association and membership services. *In re APA Assessment Fee Litigation*, 2012 WL 1940224 (2012).

**Judicial proceedings.**

Under District of Columbia choice-of-law principles, District of Columbia law, rather

than California law, applied to psychologists’ consumer protection claims against psychologists’ association and its lobbying arm, based on allegations that association misrepresented that special assessment paid by psychologists to association for use by lobbying arm was required for membership in association, as both jurisdictions had interest in applying their own laws to facts of case, and District of Columbia was forum jurisdiction. *In re APA Assessment Fee Litigation*, 2012 WL 1940224 (2012).

**Standing.**

Condominium buyer and occupant had standing to make claims against the real estate developer, arising from alleged misrepresentations, under the consumer protection law because they alleged that the developer engaged in a trade practice through such misrepresentations. *Wetzel v. Capital City Real Estate, LLC*, 73 A.3d 1000, 2013 D.C. App. LEXIS 501 (2013).



